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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,818	08/19/2003	Donald Studer		3092

7590 12/22/2004
Robert J. Ireland
POB 273
Banks, OR 97106

EXAMINER

SZUMNY, JONATHON A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/642,818	STUDER, DONALD	
	Examiner	Art Unit	
	Jon A Szumny	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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This is the second office action for application number 10/642,818, Method for Forming a Hanger for a Chain Link Fence, filed on August 19, 2003.

It is noted that although the applicant has indicated that claims 1-9 are "withdrawn" under the "Amendment to Claims" heading, the Examiner is assuming claims 1-9 are cancelled since the first line of the "Remarks--General" heading recites that "all previous claims" have been ~~cancelled~~ ^{deleted}.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

It is noted that a provisional election was made without traverse to prosecute the invention of species I. Because claims 1-9 were cancelled, the Examiner will assume that new claim 10 is directed to species I.

Specification

The disclosure is objected to because of the following informalities:

The applicant has not provided a description of figures 6-9.

Appropriate correction is required.

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Claim Objections

Claim 10 is objected to because of the following informalities:

In line 10, "First element" should be --Said first element--;

In line 19, "having said second element" should be --wherein said second element is--;

In the last line, "therefrom;" should be --therefrom.--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The applicant begins the preamble of claim 1 by reciting --A method of forming a hook apparatus...--, but then never really recites any method steps throughout the claim. The applicant only recites structure of the hook apparatus. Therefore, for the purposes of this office action, the Examiner will assume claim 10 is a structure claim that defines the structure of the apparatus.

Additionally, it is not clear if the applicant is intending to recite the wire of the chain link fence positively or functionally. The preamble of recites the chain link fence functionally ("for use on a chain link fence...") but then lines 16-17, 25-26 and 27-28 recite the chain link fence positively ("being less in width than the distance between the intersecting wires..." "generally matching the wire stagger of the diamond pattern..." and "having an internal radius slightly larger, but generally matching the radius of the

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wire..."). The applicant must make it clear whether the chain link fence is recited positively or merely functionally. For instance, stating --and are adapted to be less in width-- , --adapted to generally match...-- and --adapted to have an internal radius-- would specify that the chain link fence and wires are recited *functionally*. For the purposes of this office action, the Examiner will assume the chain link fence is recited *functionally*.

Claim 10 recites the limitations "the intersecting wires of a chain link fence" in line 17 and "the wire stagger of the diamond pattern of a chain link fence" in lines 25-26. There is insufficient antecedent basis for these limitations in the claim.

Also, in lines 15-16, the applicant recites that the first and second elements and the flat fold portion are integral. However, the applicant already recited such in lines 7-8. Hence, this is double inclusion.

Claim Rejections - 35 USC § 102

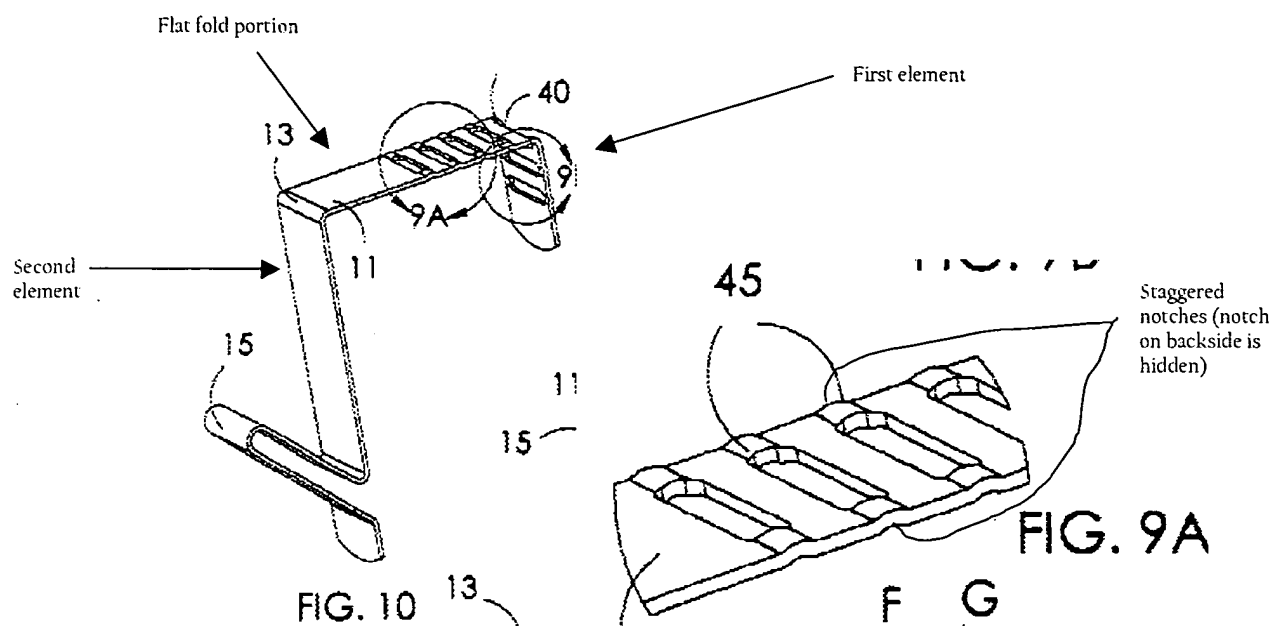
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 10 is rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent number 6,364,260 to Lorincz et al.

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Lorincz et al. '260 discloses an apparatus comprising a first element vertically disposed and having anterior right and left side edges, a second element, vertically disposed and having anterior right and left side edges, a flat fold portion, horizontally disposed, integral with the first and second elements, having anterior right and left side edges, wherein the first element, second element and flat fold portion are folded relative to one another in an upside down U-shape, and disposed with said first element and second element in a generally parallel configuration, and the flat fold portion generally perpendicular to the first and second elements, the first element, second element and flat fold portion are integral and of constant width and could inherently be adapted to be less in width than the distance between the intersecting wires of a chain link fence, wherein the first and second elements extend down from the flat fold portion wherein the second element is slightly longer than the first element, wherein the flat fold portion is notched having one notch along the anterior right side edge, and another notch along the anterior

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left side edge, wherein the flat fold portion has the notches located on a stagger from the horizontal axis, that could inherently be adapted to generally match the wire stagger of the diamond patter of a chain link fence, wherein the notches have an internal radius that could inherently be adapted to be slightly larger, but generally matching, the radius of the wire used in a chain link fence, allowing for the wire in a chain link fence to removably engage with said notches, wherein the second element is inherently configured and arranged for the support of various articles suspended therefrom.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is

(703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is

(703) 308-1113.

A handwritten signature in black ink, appearing to read 'Jon Szumny', with a stylized flourish extending to the right.

Jon Szumny
Patent Examiner
Technology Center 3600
Art Unit 3632
December 18, 2004